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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

No. 594

THE FEDERAL LAND BANK OF ST. LOUIS,
A CORPORATION,
Petitioner,

vs.

A. B. PRIDDY, CIRCUIT JUDGE,
Respondent.

PETITION FOR WRIT OF CERTIORARI.

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Your petitioner, the Federal Land Bank of St. Louis, respectfully prays for a writ of certiorari herein to review the decision of the Supreme Court of Arkansas, being the court of last resort of said State, denying a writ of prohibition to be directed to the respondent herein, which decision became final on September 24, 1934, when said court denied the application theretofore made in due time by this petitioner, for a rehearing of said cause and for a reconsideration of said decision.

Neither the final decision of the Supreme Court of Arkansas rendered on September 24, 1934, denying said ap-

plication for rehearing (R., p. 18), nor the decision and opinion theretofore rendered in said action on June 18, 1934 (R., p. 14), has yet been reported in the official reports of that court, but both of said decisions are reported in 74 S. W. (2d) 222 (advance sheets).

Statement of Facts.

Your petitioner is one of the twelve Federal land banks chartered by the Federal Farm Loan Board under the provisions of an Act of Congress approved July 17, 1916, and acts amendatory thereto, known and cited as the Federal Farm Loan Act (12 U. S. C. 641 *et seq.*; 39 Stat. 360, *et seq.*).* Petitioner is authorized by its charter to do business in the States of Arkansas, Illinois and Missouri. Petitioner maintains its offices in the City of St. Louis in the State of Missouri.

S. M. Briscoe, a real estate broker and a resident of Pope County, Arkansas, instituted an action in the Pope County, Arkansas, Circuit Court against this petitioner on or about the 6th day of January, 1934, said action being styled S. M. Briscoe, Plaintiff, *vs.* The Federal Land Bank of St. Louis, Defendant. In said action, plaintiff sought judgment against petitioner for the sum of $300.00 allegedly due as a commission on a contract for the sale of certain real property.

In said action, plaintiff Briscoe attempted to obtain service of process upon this petitoner by the attachment

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*For the convenience of the Court, petitioner has filed with the Clerk copies of a compilation of the laws relative to Federal agencies for farm credit, published by the Farm Credit Administration. This compilation is in the form of two pamphlets, one relating to long-term credit and the other to short and intermediate-term credit. The statutes are set forth in these pamphlets in accordance with the codification thereof in Title 12 of the United States Code.

of certain real property belonging to it, and by the publication of a Warning Order, in accordance with the provisions of §§ 1159 and 1160 of Crawford & Moses Digest of the Statutes of Arkansas (R., pp. 8-11).

Petitioner entered its special and limited appearance in said action and moved the court to quash the service, dissolve the attachment and dismiss the suit upon the grounds stated in said motion (R., p. 6). This motion was submitted to and overruled by the trial court on April 2, 1934 (R., p. 8).

Petitioner thereupon filed an original petition in the Supreme Court of the State of Arkansas for a writ of prohibition to be directed to the Honorable A. B. Priddy as Judge of the Circuit Court in and for Pope County, Arkansas, respondent herein, to prohibit him as such Circuit Judge from assuming jurisdiction of said action, and to prohibit him as such judge from making or entering any order, judgment or decree in or about said action (R., p. 1). This petition for writ of prohibition was heard and considered by the Supreme Court of the State of Arkansas, and an opinion and decision were rendered by said court on June 18, 1934, denying said petition (R., p. 14).

In due time petitioner filed a motion in the Supreme Court of the State of Arkansas, praying for rehearing of its said petition for a writ of prohibition (R., p. 16). Said motion for rehearing was denied by said court on September 24, 1934 (R., p. 18). The order of the Supreme Court of Arkansas, denying this bank's petition for rehearing of said petition, constitutes a final judgment of the highest court of said State.

Reasons Relied on for Writ of Certiorari.

The decision below deprived this petitioner of rights and immunities to which it is entitled under the Constitution

of the United States and under statutes enacted by the Congress of the United States, for the following reasons:

1. Petitioner is a Federal banking corporation, an agency and instrumentality of the Federal Government. As such instrumentality, it is immune from interference in the performance of its functions by the attachment or garnishment of its property before final judgment. Attachments and garnishments in such cases would clog and embarrass this Federal instrumentality. A Federal immunity would be assailed.

2. Section 4 of the Federal Farm Loan Act (12 U. S. C. 676) does not constitute a waiver of immunity from attachment or garnishment before judgment, in providing that Federal land banks may "sue and be sued • • • as fully as natural persons."

3. Petitioner, being incorporated under a statute of the United States, is not a "foreign corporation" in any State where it is authorized to do business. As such Federal or national corporation, petitioner is immune from State legislation relative to foreign corporations.

4. The Supreme Court of Arkansas, in refusing to prohibit interference with the performance of the functions of a Federal instrumentality, has departed from the rules laid down by this Court in the long line of cases commencing with *McCulloch* v. *Maryland*, 4 Wheat. 316, and reiterated by this Court throughout the past century.

5. The Supreme Court of Arkansas, in holding that a Federal land bank is a "foreign corporation" within one of the States of its district, has ignored the rule stated by this Court in the case of *Bankers Trust Co.* v. *Texas & Pacific Ry.*, 241 U. S. 295, and the decision below is in direct conflict with this Court's decision respecting the citizenship of a Federal corporation.

6. The precise question raised in this suit—the liability of the property of a Federal land bank to attachment before judgment—has never before been presented in a court of last resort in any State, and it has not been passed upon by this Court or by any Circuit Court of Appeals of the United States. The question is one of great practical importance, and if the decision below is permitted to stand, the results will be far-reaching.

This Court is thoroughly familiar with the general operations of the Federal land banks. The Court is undoubtedly aware of the large amount of Government money which has, from time to time during the past few years, been made available to the Federal land banks by Congressional appropriation, in the form of additional capital and surplus, in order to enable the banks to extend the time of payment of delinquent mortgages and to continue their lending operations.

By the Federal Farm Mortgage Corporation Act of January 31, 1934 (12 U. S. C. 1020 *et seq.*), Congress has made further provision for assistance to the Federal land banks in carrying out, as instrumentalities of the Government, its program for relieving and refinancing the burden of farm debt, which had become a national menace. By the terms of this act, Congress established the Federal Farm Mortgage Corporation, with a capital of $200,000,000 owned by the Government; and authorized the Corporation to issue and have outstanding bonds, fully and unconditionally guaranteed by the United States, to the extent of $2,000,000,000. These bonds may be issued in amounts equal to the assets of the Corporation, including assets represented by bonds of the Federal land banks acquired by the Corporation in exchange for an equal face amount of its bonds.

The banks are also acting as agents of the Federal Farm Mortgage Corporation for the making of direct loans to farmers under the Emergency Farm Mortgage Act of 1933 (12 U. S. C. 1016 *et seq.*) The banks are subject to designation by the Secretary of the Treasury as depositaries of the public money and financial agents of the Government (12 U. S. C. 701).

If Federal land banks were subject to interference in the performance of these functions by garnishments, attachments, executions, etc. issuing from State courts before final judgment, the efficiency of the banks as Federal instrumentalities would be greatly impaired, the Government's program for the rehabilitation of debt-burdened farmers would be seriously impeded and, in many individual cases, would be actually frustrated by the temporary tying-up of funds of the banks and of the Federal Farm Mortgage Corporation.

7. The Federal questions raised in this case are of equal importance to the other Federal land banks which operate in the field of long-term agricultural credit, and to other Government instrumentalities operating in the field of intermediate and short-term credit. In each Federal land bank district, these institutions operate under a common board of directors, pursuant to the provisions of Title II of the Federal Farm Loan Act (12 U. S. C. 1021, *et seq.*), and the Farm Credit Act of 1933 (12 U. S. C., 1131, *et seq.*) Thus, in each district four great Federal agencies operate under a single management which insures coordinated policies, these agencies being the Federal land bank, the Federal intermediate credit bank, the Bank for Cooperatives and the Production Credit Corporation of the district.

Conclusion.

WHEREFORE, your petitioner prays that a writ of certiorari be issued out of and under the seal of this Honorable Court, directed to the Supreme Court of Arkansas, commanding that court to certify and forward to this Court a full and complete transcript of the record in the proceeding in said Supreme Court had in the case numbered and entitled on its docket, No. 4-3515, The Federal Land Bank of St. Louis, a Corporation, Petitioner, *vs.* A. B. Priddy, Circuit Judge, Respondent, to the end that this cause may be reviewed and determined by this Court, as provided for by the statutes of the United States, and the petitioner may have such other and further relief in the premises as this Court may deem proper.

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